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**FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY**

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 2554

In the Matter of

Defining Primary Lines

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CC Docket No. 97-181

**COMMENTS OF
TELECOMMUNICATIONS FOR THE DEAF, INC.**

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Telecommunications for the Deaf, Inc. ("TDI"), by undersigned counsel, respectfully submits these comments in response to the Federal Communications Commission's ("FCC's" or "Commission's") Notice of Proposed Rulemaking regarding the definition of primary lines for the purpose of establishing a cap for the subscriber line charges ("SLCs") and presubscribed interexchange carrier charges ("PICCs") that price cap local exchange carriers ("LECs") can charge end users for different categories of telephone lines.¹ TDI is a national consumer organization that seeks to represent the interests of the twenty-eight million Americans who are deaf, hard of hearing, late deafened and deaf-blind. TDI's mission is to promote full visual access to entertainment, information, and telecommunications through consumer education and involvement, technical assistance and consulting, application of existing and emerging technologies, networking and collaboration, uniformity of standards, and national policy development and advocacy. It submits comments specifically on the Commission's proposal with respect to ensuring affordable universal service for Americans who are deaf or hard of hearing.

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¹ In the Matter of Defining Primary Lines, Report and Order & Further Notice of Proposed Rulemaking, CC Docket No. 97-181, released March 10, 1999 ("Report and Order" or "Further Notice").

I. Introduction.

In the *Report and Order*, the Commission implemented different rates for SLCs and PICCs, depending upon whether a telephone line is a primary residential line or single line business line, a non-primary residential line, or a multi-line business line. The Commission defined a primary residential line to be “one residential line provided by a price cap LEC per service location.” (Report and Order at para. 15) The FCC correctly recognizes that adoption of this definition could have an adverse impact on households of persons who are deaf or hard of hearing. (Further Notice at para. 41)

II. Households of Persons Who Are Deaf or Hard of Hearing Have Special Telecommunications Requirements.

Such households have special communications needs that often require the installation of multiple lines to ensure that all residents have access to telephone service. In some instances, a household member who is not deaf or hard of hearing requires a separate line to be used with traditional telephone sets, while a person who is deaf or hard of hearing needs a line equipped with a text telephone (“TTY”).² Even a household occupied only by individuals who are deaf or hard of hearing may require two lines if a household member employs 2-line voice carry over (“VCO”) provided via relay. In this case, two separate phone lines and conference calling capabilities are necessary to use the 2-line VCO bridge provided via the Telecommunications Relay Service (“TRS”).³ Thus, TDI applauds the Commission’s tentative conclusion that individuals who are deaf or hard of hearing and require additional lines should not have to pay for them at the higher non-primary line rate. (Further Notice at para. 48.)

² A second line is required because it is difficult to determine whether an incoming call is voice or TTY. Similarly, a voice-based answering machine cannot be used on the same line as one used for TTY communications.

³ Such a device requires one line over which the individual speaks and another over which to read the response transmitted by the TRS operator.

III. The Second Line in a Household Where Persons Who Are Deaf or Hard of Hearing Should Be Assessed the SLC and PICC at the Primary Line Rate and Subsidized Explicitly Through the USF.

The FCC proposes two options for alleviating this potential burden. The Commission could require price cap LECs to charge for SLCs and PICCs at the primary line rate for lines in the household of a person who is deaf or hard of hearing. Or, it could establish an explicit subsidy that provides funding directly to the person who is deaf or hard of hearing, to cover the price difference to pay for a second line charged at the non-primary line rate.

TDI supports funding the cost differential through an explicit subsidy since artificially designating a second line as a primary line would require the LEC serving the location individually to subsidize customers who are deaf or hard of hearing. An explicit subsidy from the Universal Service Fund (“USF”) would instead spread the cost among all users of the public switched network and collect the funds from interexchange carriers on the basis of nation-wide interstate minutes-of-use rather than placing the burden on individual LECs.

Requiring LECs to subsidize the differential would randomly penalize any LEC whose service area included a statistically high percentage of subscribers who are deaf or hard of hearing. For example, the carrier serving the area around Galludet University or other institutions that draw large populations of individuals who are deaf or hard of hearing to their vicinity would be unduly burdened with this additional cost. Anticipating these higher costs, competitive carriers might be incited not to offer services to these geographic areas, thereby depriving persons who are deaf or hard of hearing of the benefit of competitive telecommunications services.

Moreover, there is a philosophical consistency inherent in funding any reduction in SLCs and PICCs for people who are deaf or hard of hearing from the USF. The Congress identified principles upon which it directed the Commission and the Joint Board specifically to base their policies for the preservation and advancement of universal service: First, “[q]uality services should be available at just, reasonable, and affordable rates.”⁴ It further required that

⁴ 47 U.S.C. 254 (b)(1).

“[c]onsumers in all regions of the Nation, including low-income consumers and those in rural, insular, and high cost areas, should have access to telecommunications and information services, including interexchange services and advanced telecommunications and information services, that are reasonably comparable to those services provided in urban area and that are available at rates that are reasonably comparable to rates charged for similar services in urban areas.”⁵

Although the Congress was viewing high cost areas in a geographic sense, persons who are deaf or hard of hearing exist in “virtual high cost areas.” Their basic service costs are higher because they must invest in more expensive consumer premise equipment, and pay recurring costs associated with multiple lines⁶ and longer connection times for long distance. In addition, they incur the additional cost of conference calling capability necessary to use 2-line VCO via the TRS. The Congresses’ fear that individuals living in geographically insular locations are cut off from society can apply as well to those individuals who are distanced from society due to a physical impairment beyond their control. Thus, funding the higher cost of communications for hearing impaired individuals through the USF allocates the costs fairly and does so in a manner consistent with the policies underlying the USF mechanism.⁷

IV. The Commission Should Employ Existing Mechanisms to Self-Certify Eligibility for the Subsidy.

To determine which individuals qualify for the SLC and PICC subsidy, the FCC proposes self-certification. TDI supports this option as a cost-effective and administratively simple means of establishing eligibility. Moreover, many consumers who are deaf or hard of hearing already engage in self-certification to qualify for discounts offered on long distance services to

⁵ 47 C.F.R. U.S.C. 254(b)(3).

⁶ TDI applauds states, such as Wisconsin, whose commission provides for a full subsidy for conference call capabilities for use with 2-line VCO and has proposed rules that would fully subsidize the second line as well.

⁷ TDI supports funding the subsidy from the USF rather than the TRS, which should be reserved for developing more advanced voice recognition and relay systems for persons who are deaf and hard of hearing.

compensate for the increased length of time that TTY communications requires. Also, some states have established self-certification mechanisms to determine eligibility to participate in equipment distribution programs. Instead of imposing a redundant certification requirement on persons who are deaf or hard of hearing, TDI urges the Commission to rely upon existing mechanisms and require IXCs to share this information with the LECs in their normal course of exchanging customer information.

V. The Commission Should Provide a Similar Subsidy to Businesses that Install TTY Capability on a Dedicated Line

The Commission has previously implemented rules to provide persons who are hard of hearing with better access to hearing aid compatible phones with volume control mechanisms in public area and in the workplace.⁸ The Further Notice focuses primarily on devising a funding mechanism to provide better telecommunications services at home to persons who are deaf or hard of hearing. While TDI commends the Commission for its growing list of accomplishments with regard to providing expanded opportunities to persons who are deaf or hard of hearing, it submits that there are additional actions the Commission can take. The availability of hearing aid compatible phones in public places and individual offices and the proposed eligibility for the lowest available SLCs and PICCs are positive advancements, yet neither action addresses the difficulty that persons who are deaf or hard of hearing have in communicating generally with businesses. Thus, TDI urges the Commission to consider extending whatever SLC and PICC relief it accords to persons who are deaf or hard of hearing in their homes to businesses that make special efforts to communicate with them.

Today, many large telemarketing businesses provide toll free access to TTY communications. These companies provide this equipment without any mandate or subsidy, not necessarily because of social concern for persons who are deaf and hard of hearing, but because it is in their financial best interest to market to the persons who are deaf or hard of hearing. Until

⁸ Access to Telephone Equipment and Services by Persons with Disabilities, Report and Order, 11 FCC Rcd 9249 (1996).

TTY facilities are available at local businesses as well, people who are deaf or hard of hearing will continue to have limited access to critical communications opportunities. Persons who are deaf or hard of hearing are unable easily to call a local department store or supermarket directly via TTY to make simple inquiries unless the business provides TTY access. To address this problem, TDI recommends that the Commission consider extending to such businesses a subsidy similar to the one it is considering for the residences of persons who are deaf or hard of hearing. Such collaboration between the government and small businesses is necessary in order to expand opportunities for communications and access to this significant segment of the population. TDI recommends that businesses that provide a TTY device to communicate with customers who are deaf or hard of hearing be allowed to classify the line dedicated to that device as a single-line business line, and pay the lowest SLCs and PICCs on that line. Although the dollar value of the savings would be minimal, it might be enough to induce a few businesses to exercise a greater degree of social responsibility. To become certificated, the business proprietor would provide its local carrier with proof of purchase of the TTY equipment as well as printed documentation showing advertisement or other public information indicating the availability of TTY.⁹

VI. New Technologies Provide Better Access to the Telecommunications Network for Persons Who Are Deaf or Hard of Hearing.

Finally, the Commission seeks comment on new developments in technologies and services that could further assist persons who are deaf or hard of hearing. (Further Notice at para. 45). In considering ways to provide these individuals with better access to the global communications network, TDI submits that it is important to offer as many choices as are technically and economically feasible. There already are communications opportunities such as email and facsimile that may be available to persons who are deaf or hard of hearing without

⁹ Local telephone directories could designate particular lines as equipped for TTY communications.

additional costs related specifically to their disabilities,¹⁰ but these forms of communications represent limited options and are not a satisfactory solution in many situations.

The advent of high-speed digital communications offers the person who is deaf or hard of hearing new opportunities to access the network in a manner that best replicates the access of persons who are not deaf or hard of hearing. The Telecommunications Act of 1996 “require[s] that users of telecommunications relay services pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to point of termination.”¹¹ Just as email and fax are not the functional equivalents of an interactive conversation, TTY and TRS do not meet the expressed needs of individuals who use American Sign Language (“ASL”) as their primary means of communicating. Video relay service now allows an individual who is deaf or hard of hearing to access an interpreter in a manner that provides a closer approximation to a traditional telephone conversation between two individuals who are not deaf or hard of hearing.¹² Video relay service requires greater bandwidth, a video camera, and access to an interpreter – expensive when considering all factors and the initial investment, though inexpensive in the long run on a cost per minute for TRS basis. It is an essential step to take, however, in order to provide better telecommunications services to persons who are deaf or hard of hearing.

The native language for many persons who are deaf or hard of hearing is ASL, not English or Spanish or some other language. That is, traditional verbal communication and the written derivative required by a TTY is not their first language. ASL is a manual/visual language that has no spoken or written form (in contrast to most languages, like English, which have both

¹⁰ The investment in these peripheral devices, however, is often beyond the means of low-income individuals.

¹¹ 47 U.S.C. 225(d)(1)(D).

¹² The person who is deaf or hard of hearing uses ASL to sign to an interpreter, who relays the conversation verbally to the other party.

spoken and written forms). When native ASL speakers communicate using a TTY or through the TRS, it is difficult to express ideas well in written language, and the result will likely be grammatically and syntactically different. Both parties to the communication would be more comfortable communicating using ASL through video relay service. Not only is it faster than typing a conversation on a keyboard, but both the hearing individual and the person who is deaf or hard of hearing are able to communicate in the medium with which they are most comfortable.

In addition, TDI urges the Commission to investigate the incorporation of “speech-to-text” technology into the TRS system, thereby producing a near real-time TRS conversation and further expanding the network access of persons who are deaf or hard of hearing. Such technology is available today using “off-the-shelf” software packages.¹³ Once the systems are “trained” to the TRS Communications Assistants’ voices, they can render a speaking person’s words in text for the TTY user to read. This advancement would significantly speed up TTY conversations by eliminating the manual typing of text.

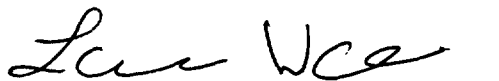
These new technologies clearly help provide to persons who are deaf or hard of hearing access to essential telecommunications services that better approximate the quality of access available to persons who are not deaf or hard of hearing. TDI recognizes that a discussion of the costs of the necessary computer software and hardware, video equipment, and installing high-speed data lines is beyond the scope of the instant rulemaking. It is important, however, for the Commission to be aware of these advances as it continues to search for ways to provide truly universal service to all Americans.

¹³ For example, Dragon System’s “Naturally Speaking” provides this capability.

VII. Conclusion

For the foregoing reasons, TDI recommends that the Commission establish an explicit subsidy to fund a second line at primary line rates in the homes of individuals and at small business locations that provide TTY access to the persons who are deaf or hard of hearing. It also urges the Commission to consider ways to implement and fund high-speed data communications and advanced TTY capabilities to provide persons who are deaf or hard of hearing with better access to the public switched network.

Respectfully submitted,



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